

IN THE UNITED STATES BANKRUPTCY COURT  
 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	:	
MORIARTY CONSULTANTS, INC.,	:	Case No. 18-24606-TPA
Debtor,	:	
	:	
MORIARTY CONSULTANTS, INC.,	:	Chapter 11
Movant,	:	
	:	Related to Doc. No. 4
v.	:	
	:	Hrg.: Dec. 6, 2018 at 10:00 AM
FIRST NATIONAL BANK, N.A.,	:	
Respondent.	:	

**ORDER**

**AND NOW**, this 30<sup>th</sup> day of **November, 2018**, following an expedited hearing held yesterday on the ***Emergency Motion to Enforce the Automatic Stay*** (“Motion”), filed by the Debtor at Doc. No. 6, and for the reasons stated on the record at the time of the hearing, it is hereby **ORDERED, ADJUDGED** and **DECREED** that the *Motion* is **GRANTED in part on an interim basis**, as follows:

(1) The “setoff” on the Debtor’s account undertaken by First National Bank, N.A. (“Bank”) on November 28, 2018 is ***avoided and set aside*** to the extent of \$150,000<sup>1</sup>, on an interim basis, and without prejudice to the alleged setoff rights of the Bank, which such amount shall be immediately restored to the Debtor’s account by the Bank.

(2) The Bank shall also immediately restore the Debtor’s ability to access information about the account.

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<sup>1</sup> The Court may have inadvertently stated this amount as \$140,000 in its oral opinion delivered at the close of the hearing.

(3) The Debtor is permitted and directed to use the restored funds in the account to fund its normal payroll for the November 30, 2018 paydate, *provided however*, that absolutely no payroll payments from those funds, or from any other funds of the Debtor, are to be made to Arlinda Moriarty or to any other individual who is under indictment, or entity associated with her, with respect to any activities involving or related to the operations of the Debtor.

(4) The remaining amount of the setoff undertaken by the Bank, represented to be \$54,000, is *upheld* and shall be applied to reduce the amount of the debt owed to the Bank by the Debtor.

(5) A continued evidentiary hearing on the *Motion* is scheduled for ***December 6, 2018 at 10:00 A.M.*** in Courtroom C, 54<sup>th</sup> Floor, U.S. Steel Tower, Pittsburgh, PA 15219 for the purpose of determining whether the interim avoidance of \$150,000 of the setoff shall be recognized as permanent, or whether the validity of the setoff pursuant to *11 U.S.C §553* should be recognized.

(6) In a form of adequate protection, any further deposits made into the account pending the December 6<sup>th</sup> hearing and subsequent Order of Court are subject to the possible reinstatement of the Bank's setoff as to those monies and ***shall be held in the account and unavailable for use by the Debtor***, without violation of the automatic stay.

(7) At the time of the December 6<sup>th</sup> hearing the Debtor shall, at a minimum, provide evidence as to the prospects for it to have a continued income stream from Medicaid payments notwithstanding the indictment of Arlinda Moriarty and the other individuals.

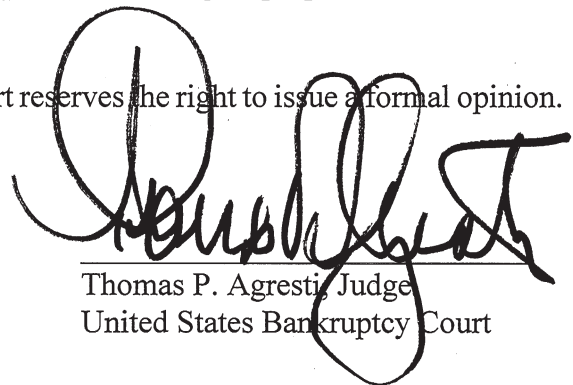
(8) *On or before December 5, 2018 at 12:00 P.M.* the Debtor shall initiate a preference action *against Everyday Peoples, Inc.* as to monies paid to it out of the account, and it shall also file a report providing, to the best of its ability based on the information then available, an accounting as to all payments made, and the specific use and persons receiving the benefit of such payments, by the Debtor to Everyday Peoples, Inc. in the four-year period preceding the bankruptcy filing. Any recovery made in such preference action shall be allocated first toward any portion of the Bank's allowed setoff that may be restored by the Court and still unpaid as of the time of the recovery.

(9) The Debtor represented at the hearing that Arlinda Moriarty has resigned as CEO of the Debtor. *Arlinda Moriarty* is barred from exercising any management authority in the Debtor, or control of the Debtor, without prior Court approval.

(10) *On or before December 5, 2018 at 12:00 P.M.* the Parties shall file Exhibit Lists for the December 6, 2018 hearing.

(11) *On or before December 4, 2018* the Parties shall deliver to the Court's Chambers in Erie three copies of marked Exhibits for the December 6, 2018 hearing. *See Procedures for all Judge Agresti Cases at <http://www.pawb.uscourts.gov/tpa-proc.htm>.*

(12) In the event of an appeal, the Court reserves the right to issue a formal opinion.



Thomas P. Agresti, Judge  
United States Bankruptcy Court

Case administrator to serve:

David Fuchs, Esq.  
Roger Poorman, Esq.  
Jill Locnikar, Esq.

U.S. Trustee  
Debtor